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Can Routine Activities Theory Be Applied to Explain White Collar Crime? a Crime-Specific Analysis Using Reverse Redlining

Jory A. Maes
Regis University

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APPROVED:

______________________________, Faculty Facilitator

______________________________, Faculty Chair

Abstract

Scholars have examined white collar crime through lenses of classical criminological theories such as: anomie theory, learning/differential association, rational choice/opportunity, strain, and social control theory. Little research has been done using Routine Activities Theory to analyze white collar crime. The author's intention is to offer one example of how Routine Activities Theory can be applied to explain the contextual significance of a white collar crime. The research methodology utilized is centered upon reverse redlining, a predatory lending practice. The research models the application of Routine Activities Theory which is seated in the idea that crime emerges when there is a convergence of motivated offenders and suitable targets in the absence of guardianship. The author collected secondary source data that is both quantitative and qualitative in order to answer the research questions: Can Routine activities Theory be applied to explain white collar crime?; Can Routine Activities Theory be used to conduct a crime specific analysis of reverse redlining? The author examines the relationship between micro and macro contextual factors that present criminal opportunity for reverse redlining in relationship to Routine Activities Theory. The benefit of isolating these contextual commonalities allows practitioners to examine a menu of contributory factors in order to design a more comprehensive approach for remedy and prevention.

Keywords: criminology, predatory lending, reverse redlining, subprime lending practices, Routine Activities Theory, white collar crime

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Introduction

The Joint Center for Housing Studies of Harvard University refers to the years of 2000 - 2010 as "The lost decade," citing that "After an $8.2 trillion plunge in housing wealth since the end of 2005, mortgage debt entered 2010 at 163 percent of home equity" (JCHS, 2010, p. 3). As a result, public policy has evolved to address sweeping financial reforms. These reforms follow the massive regulatory transformation implemented after the Savings and Loan Crisis of the 1980's, whereby the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) "was enacted to reform, recapitalize and consolidate the federal deposit insurance system". (GAO, 1996, p. 61). Recently, a renewed examination of criminal activity within finance and banking industry has emerged.

A cascade of victimization trails in the wake of the perpetration of predatory crimes throughout the finance and banking industry. As is common with many white collar crimes, there has been a lack of crime reporting at the micro level. Predatory lending practices lack formal definition and without a clear cut legal definition, victims are difficult to identify and perpetrators are seldom prosecuted. To further complicate things, a blurry overlap exists between licit and illicit activities as it does in most white collar and organized crime systems. This grey area hinders crime analysis, policy formation, and the pursuit of remedy. In attempt to gain further understanding of contemporary white collar crime, scholars have begun using various classical criminological theories such as anomie theory, learning/differential association, rational choice/opportunity, strain, and social control. These theories primarily focus the behavior of the criminal(s), or victim(s), or their subcultures. A comprehensive strategy for a crime-specific analysis is available through the application of Routine Activities Theory.

The author expands the traditional application of Cohen and Felson's Routine Activities

Theory to help to explain the contextual factors that cause the convergence of motivated offenders, suitable targets, and lack of guardianship. To model the application of Routine Activities Theory to white collar crime, the author has chosen the predatory lending practice of reverse redlining.

Prior to the Fair Housing Act of 1968, lenders "redlined" marginalized neighborhoods by denying access to mortgages or mortgage insurance in those areas. Still today, discriminatory practices are evidenced in racially segregated living patterns. In many metropolitan cities there stands a residual geographic concentration of minority peoples that have not experienced homeownership (Sangree, 2009, p. 1). From 2000-2010 communities that for generations have been denied access to credit suddenly were flooded with mortgage opportunities. Except that what seemed like opportunities for bridging a racial gap in homeownership, turned out to be an exploitation of an already under-served people. This predatory lending practice is called reverse redlining.

The effect of reverse redlining has devastated low income neighborhoods and homeowners of color disproportionately during the Untied States Housing Crisis of the first decade in the 21st century. It is not unusual for scholars and practitioners to consider the statistical and historic significance of victim demographics or relative economic, social and political trends surrounding a crime trend, however, the formal framework set forth by Routine Activities Theory is rarely applied. The author seeks to understand the victimization reverse redlining by investigating the routine activities and flow of influence that contributes to the convergence of offender and victim in a place with little to no guardianship. This crime specific analytical approach models the use of Routine Activities Theory (RAT) for the purpose of exploring whether RAT can be used to explain some behavioral patterns associated with white collar crime.

Statement of Problem

Routine Activities Theory is an environmental criminological theory which has been rigorously applied to the analysis of predatory street crimes, and more recently organized crime. As members of the United States criminal justice system struggle to keep up with the evolving face of white collar crime, criminological theory must also evolve to be relevant and useful.

An industry-wide calamity of financial and banking woes have plagued the U.S. economy from 2000 – 2010. Inside of this complex horizontal and vertical organization of financial exploitation, there were identifiable crimes. In order to identify these crimes as trends, worthy of analysis and regulation, one must first assess the environment from which they thrived.

There exists a gap in the research with regard to the application of Routine Activities Theory to white collar crimes, which are inherently predatory. Routine Activities Theory is a tool that can accurately guide a researcher who may be pursuing a comprehensive analysis on the organization of white collar crime.

> "The different kinds of question that can be posed about organized crime or the organization of serious crimes matters, not least because, as in broader social science, intensive and extensive research questions are often conflated and confused: this results in mismatches between what is being asked, how it can be investigated and what is actually studied" (Edwards & Levi, 2008, p. 368-369).

Overview of Problem

By only looking at criminal behavior, or system specific analysis, scholars, practitioners, and regulators are missing the broader picture. As an analogy, if a plant is dying, and an investigation is conducted to locate the cause, one might take a soil sample, or a humidity sample, or look at the behavior of neighboring plants. That investigation might neglect peripheral factors such as light and heat that are essential for nourishing environment. Routine Activities Theory has the potential to be valuable for the analysis of crime trends because it combines a macro analytical social, political and economic view of the environment surrounding criminal activity with a microanalysis that visits target suitability and the presence of effective guardianship from a spacio-temporal perspective. This application reveals factors that provide the researcher with the overall picture of sustenance of a crime trend.

Predatory lending, as a crime trend, has been difficult to analyze because a universally accepted definition of predatory lending does not exist. The term predatory lending has proved elusive to regulatory agencies such as the Department of Housing and Urban Development, the U.S. General Accounting Office, the Federal Deposit Insurance Corporation, Office of Thrift Supervision, the Office of the Comptroller of Currency, and the General Accounting Office who do not have a shared definition (DelGadillo, Ericson & Piercy, 2008). Researchers found that consumer advocacy groups such as the Center for Responsible Lending, Association of Community Organizations for Reform Now, and National Council of La Raza do not share a definition either (DelGadillo, Ericson & Piercy, 2008). In 2000, lawmakers attempted to reign in predatory lending practices, but as Senator Gramm attested "I don't know how we can hope to address the problem before we have decided what it is. That is the first step, and we cannot skip it" (Heller, 2000, ¶ 11).

For this study, the author defines predatory loans as "consumer loans with any or all of the following characteristics: aggressive and deceptive marketing, lack of concern for the borrower's ability to pay, high interest rates and excessive fees, unnecessary provisions that do not benefit the borrower, large prepayment penalties, or faulty underwriting" (Hill and Kozup, 2007).

This study uses Routine Activities Theory in a new way to investigate predatory white collar crime. In order to model this application, this study focuses on a subset of predatory lending, called reverse redlining. Reverse redlining is a discriminatory lending practice whereby lenders deliberately seek to exploit borrowers from marginalized neighborhoods by targeting members for the solicitation and procurement of predatory loans.

Predatory crimes are defined by Glaser as "illegal acts in which someone definitely and intentionally takes or damages the person or property of another" (as cited in Cohen & Felson, 1979, p 589). The intent of reverse redlining is to target victims, those without previous access to credit, or those who are least familiar with fair lending practices for predatory lending. "These tactics were not an attack on impoverished neighborhoods as the phrase predatory lending suggests, but instead, these policies actively impoverished neighborhoods" (Newman et al., 2008, p. 2).

One way of examining a crime that is not adequately defined, is by identifying a process of victimization. Then by investigating the sphere of influence and activities surrounding a crime, one might begin to understand the trend of the criminal behavior.

Purpose of Project

The purpose of this project is to model how Routine Activities Theory can be used to analyze white collar crime. Through a crime specific analysis of reverse redlining, Routine Activities Theory is applied to demonstrate a comprehensive investigation of the contextual characteristics surrounding this crime. Reverse Redlining was chosen as a model uses because it involves both predatory and white collar criminal behavior.

Furthermore, reverse redlining is a modern crime trend that is ill-defined and devoid of extensive scholarly research. It is understood by the criminological community as a piecemeal of victim or offender behaviors and geographically isolated statistical events. Reverse redlining is deserving of a more comprehensive holistic analysis that is available through this expanded application of Routine Activities Theory.

The overarching hypothesis of this project is: The application of Routine Activities Theory is an appropriate framework for explaining reverse redlining and therefore can be used to explain white collar crime. This hypothesis is examined by using the following research questions: RQ 2 Can Routine activities Theory be applied to explain behaviors associated with white collar crime?; and RQ 1 Can Routine Activities Theory be used to conduct a crime specific analysis of reverse redlining?

Definitions

Collateralized Debt Obligation (CDO): A CDO is an "investment-grade security backed by a pool of various other securities. CDOs can be made up of any type of debt, in the form of bonds or loans. CDOs are divided into slices. Each slice is made up of debt which has a unique amount of risk associated with it. CDOs are often sold to investors who want exposure to the income generated by the debt but who do not want to purchase the debt itself" (PBS.org, 2010, ¶ 3).

Constant Proportion Debt Obligation (CPDO): "A type of synthetic collateralized debt instrument that is backed by a debt security index, such as an iTraxx index. CPDOs were first created by ABN AMRO in 2006, which sought to create a high interest bearing instrument that also contained the highest debt ratings against default. Periodically, the debt security index in which the CPDO is backed, is rolled over by buying derivatives on the old index, and selling derivatives on a new index. By continually buying and selling derivatives on the underlying index, the administrator of the CPDO will be able to customize the amount of leverage it employs in an attempt to make additional returns off of the index price spreads at any given time" (Investopedia.com, 2010, ¶ 1).

Conventional loan: "A conventional loan is any mortgage which is not guaranteed or insured by the federal government" (Financial Web, 2010, ¶ 1). These loans adhere to Fannie Mae guidelines. Fannie Mae, or Federal National Mortgage Association, is a corporation created by the federal government that buys and sells conventional mortgages (Lending Tree, 2010, ¶ 1).

Credit Default Swap: A Credit Default Swap is a "specific kind of agreement which allows the transfer of credit risk from one party to the other. One party in the swap is a lender and faces credit risk if loans are not paid back. Another party provides insurance to insure this risk in exchange for regular periodic payments (essentially an insurance premium). If the third party defaults, the party providing insurance will have to purchase the defaulted asset from the insured party. In turn, the insurer pays the insured the remaining interest on the debt, as well as the principal" (PBS.org., 2010, ¶ 4).

Credit Score: "A measure of credit risk calculated from a credit report using a standardized formula Lenders may use a credit score to determine whether to provide a loan and what rate to charge (Investorwords.com, 2010, ¶ 1).

Deed-in-lieu: "To avoid foreclosure ("in lieu" of foreclosure), a deed is given to the lender to fulfill the obligation to repay the debt; this process doesn't allow the borrower to remain in the house but helps avoid the costs, time, and effort associated with foreclosure" (Teachmefinance.com, 2010, ¶ 1).

Department of Housing and Urban Development (HUD): is a federal agency whose mission is to "create strong, sustainable, inclusive communities and quality affordable homes for all" (HUD.gov, 2010, ¶ 1).

Fannie Mae: The Federal Home Loan Mortgage Corporation, "A congressionally chartered corporation which buys mortgages on the secondary market, pools them and sells them as mortgage-backed securities to investors on the open market. Monthly principal and interest payments are guaranteed by FNMA but not by the U.S. Government" (Investorwords.com, 2010, ¶ 1).

Federal Housing Administration (FHA): a "federal agency that provides mortgage insurance for residential loans with very low down payments. The borrower pays the insurance premium and the lender is the beneficiary. In the event of borrower default, FHA pays the lender an amount covering some or all of the outstanding loan balance. Although FHA does not lend the mortgage money, it does set underwriting and construction standards" (FreddieMac.com, 2010, p. 2).

Forbearance: "A lender's postponement of foreclosure in order to give the borrower time an opportunity to make up for overdue payments" (Investorwords.com, 2010, p. 2).

Freddie Mac: The Federal Home Loan Mortgage Corporation, "A Government-chartered corporation which buys qualified mortgage loans from the financial institutions that originate them, securitizes the loans, and distributes the securities through the dealer community. The securities are not backed by the U.S. Government" (Investorwords.com, 2010, ¶ 1).

High Risk Loan: "A home loan extended to borrowers with poor credit history or that fall outside the conventional or conforming loan limits set by Fannie Mae and Freddie Mac. Sub-prime loan is an example of a high-risk loan" (Mortgagecaluclator.org, 2010, ¶ 1).

Marginalized neighborhoods: geographic centers that have been traditionally ignored by lenders and where there is an intersection of non-dominant race and low-income populous.

Mortgage Electronic Registration Systems (MERS): "The Mortgage Electronic Registration System (MERS) was created by mortgage industry participants to streamline the mortgage process by eliminating the need to prepare and record paper assignments of mortgages. Fannie Mae was a founding member of MERS when MERS was launched in 1997. MERS acts as nominee in the local land records for the lender and servicer. Loans registered with MERS are protected against future assignments because MERS remains the nominal mortgagee no matter how often servicing is traded between MERS members" (MERSINC.org, 2010, ¶ 1).

Routine Activities Theory: the convergence of motivated offenders and suitable targets, in the absence of capable guardians (Cohen & Felson, 1979).

Subprime Loan: "A loan offered to an individual "who does not qualify for a loan at the prime rate due to their credit history. If a lender thinks that there is an above-average risk involved in giving a loan to a certain individual, they will sometimes offer them a subprime loan, which has an interest rate higher than the prime rate. The subprime rate offered by the lender can vary from institution to institution" (Investorwords.com, 2010, ¶ 1)

Short Sale: "1. A short sale occurs when a property is sold and the lender agrees to accept a discounted payoff, meaning the lender will release the lien that is secured to the property upon receipt of less money than is actually owed (about.com). 2. Borrowing a security (or commodity futures contract) from a broker and selling it, with the understanding that it must later be bought back (hopefully at a lower price) and returned to the broker. Short selling (or "selling short") is a technique used by investors who try to profit from the falling price of a stock" (Investorwords.com, 2010, ¶ 1).

Target marketing: "The practice of developing profiles of desired consumers and using those profiles to designate and audience for a product pitch" (Fisher, 2010, p. 103).

Victimization: An act that exploits or victimizes someone (treats them unfairly) (Wordreference.com, 2010, ¶ 1).

Review of Literature

The following assembly of published literature is organized around current scholarship on the subjects of the predatory lending, white collar crime, Routine Activities Theory and reverse redlining. This research is relevant not only because of the intrinsic fact-finding value concerning social, political and economic trends, but also because when assembled, it helps to paint a picture of the spacio-temporal causes of reverse redlining.

The author searched academic electronic databases such as Academic OneFile, Academic Search Premier, EBSCOhost and ScienceDirect for relative scholarship. Articles of interest were accessed through Regis University's interlibrary loan and prospector systems. Electronic searches were conducted by querying key words such as "predatory lending", "group victimization and routine activities theory", "applications of routine activities theory", and "reverse redlining". Additionally, articles by authors "Larry Cohen and Marcus Felson" containing keywords "routine activities theory" were also queried.

Routine Activities Theory

Routine Activities Theory surfaced in 1979, at a time when existing criminological theory could not explain the paradox of social and economic progress paired with an increase of predatory crime (Cohen & Felson, 1979). Cohen and Feldon suggested that by examining recent changes in environments, one could understand the cause of the crime. They asserted that the structure of routine activities "influences criminal opportunity and therefore affects trends in a class of crimes [they] refer to as direct contact predatory violations" (Cohen & Felson, 1979, p 589). The crime triangle "also known as the problem analysis triangle" illustrates the convergence of a motivated offender and a suitable target in the absence of guardianship" (POP, 2010, p. 1). This illustration is a simple and effective tool that can be used to apply Routine

Activities Theory to crime analysis.

In macro-level analyses of crime trends Cohen & Felson wrote that "although details about how crime occurs are intrinsically interesting, the important analytical task is to learn from these details how illegal activities carve their niche within the larger system of activities" (Cohen & Felson, 1979, p. 592). Edwards & Levi applied Routine Activities Theory to organized crime by analyzing the "interdependencies of licit and illicit entrepreneurs" (2008, p. 374). They emphasized the importance of "diversity of criminal cooperation" in the absence of effective guardianship and further illustrated the contextual significance of "fertile conditions [that] exist for licit business participation in the trade of illicit goods" (Edwards & Levi, 2008, p. 376).

Cohen and Felson take "criminal inclination as given and examine the manner in which the spacio-temporal organization of social activities helps people to translate their criminal inclination into action" (Cohen & Felson, 1979, p. 589). Cohen, Kluegel, and Land test Routine Activities Theory to discover if "the disadvantaged are less adequately insulated than advantaged from conditions that stimulate crimes." They found that "social power resources relate to criminal victimization only in so far as they are collinear with differences in exposure to risk, guardianship patterns, proximity to potential offenders, and identification of lucrative targets" (1981, p. 523).

Target hardening can refer to persons or property. For example, when talking about property, target hardening involves deterrent mechanisms such as adding lighting features or alarm systems to prevent night burglaries. When talking about persons, it is about changing routine activities or increasing resilience. A clear distinction must be made about resilience. Resilience, as a construct, should not be thought of as a personal trait as it can lead to 'blaming the victim' for not possessing characteristics need to function well. Rather, resilience should be used to describe a process or a phenomenon of positive adaptation (despite adversity) that denotes a trajectory of positive adaptation (Luthar & Cicchetti, 2000).

Arnold, Keane, and Baron used Routine Activities Theory in an epidemiological application. In assessing medical treatments, Routine Activities Theory "allows us to go beyond the past research, which focuses on how much better, or worse, a condition is in one group in comparison to another, to being able to determine which factors account for the greatest amount of risk or the magnitude of the problem" (Arnold et al. 2005, ¶ 6). "Once agencies analyze the problem and identify its causes, they efficiently and effectively can begin setting goals and objectives to achieve an outcome and design, implement, monitor, and evaluate programs or policies to address the problem, reducing the likelihood of the convergence of the three main components needed for crime to occur" (Boetig, 2006, ¶ 19).

Reverse Redlining

Many scholars assert that minority and low-moderate income populations were victimized by predatory lending practices nationwide. This was a crime spree that has continued for at least a decade, unabashed by regulatory oversight or grassroots resistance. The explosion in the mortgage market was semi-organized as organizational structure and culture in the finance and banking industry manifested into a safe haven for predatory practices.

> "Lenders or mortgage brokers, presuming a lack of financial sophistication, aggressively marketed loans to blacks or Hispanics, or to particular neighborhoods. As a result of this targeting, and the high pressure or even deceptive sales tactics lenders or mortgage brokers employed, some minority households who were not otherwise seeking mortgage loans entered the subprime market, and some homeowners or potential homebuyers with strong underwriting profiles who could have qualified for prime loans instead used

subprime products. To date, little empirical research has been able to demonstrate the distinct role of targeting racial disparities in mortgage outcomes, but researchers have observed that geographic patterns of lending are consistent with this mechanism" (Been, Ellen, & Madar, 2009, p. 370).

Subprime lending patterns, default and foreclosure rates, among other indicators, indicate disproportionate racial exploitation.

Critical Research has identified Reverse Redlining as a type of predatory criminal behavior within the subprime lending crisis. The Mortgage Bankers Associations National Delinquency Survey details aggregate figures for delinquency, default, and foreclosure, and further subcategorizes such figures by loan type (e.g., prime, subprime), product type (e.g., fixed rate, adjustable rate) and state. "As might be expected, these measures show that rates of delinquency, default, and especially foreclosure are much higher in the 'subprime' sector of the market with concentrates on 'high-risk' borrowers with low, irregular, or unverifiable incomes (Langley, 2009, p. 1404). "In dollar terms, the nonprime share of mortgage originations rose from about 12 percent ($125 billion) in 2000 to approximately 34 percent ($1 trillion) in 2006. Borrowers who had obtained nonprime mortgages earlier in the decade increasingly fell behind on their mortgage payments, helping to push default and foreclosure rates to historical highs." (GAO, 2009, p. 1). "White borrowers accounted for a smaller estimated proportion of the nonprime mortgage market than they did of the mortgage market as a whole, while Black or African-American borrowers and Hispanic or Latino borrowers accounted for larger proportions" (GAO, 2009, p. 52).

Researchers have asserted that reverse redlining as a trend has been deliberately hidden from public databases by lenders. The Home Mortgage Disclosure Act (HMDA) and the

Community Reinvestment Act (CRA) has long mandated the disclosure of ethno-racial and gender data of borrowers. However, starting in the 1990's nondisclosure gained popularity. "Each year, several million people who apply for mortgage loans in the United States are classified in HMDA records as 'I do not wish to furnish this information" (Wyly, Atia, & Mendez, 2007, p. 2141)." "Millions of people have been classified this way by the actions of lenders- thanks to regulatory loopholes, mortgage marketing practices, and [Wyly, Atia,& Mendez believe] cases of noncompliance" (2007, p. 2141). One reason it is difficult to measure reverse redlining is because "race - ethnicity, and gender are 'disappearing' from the main public data source used to study, organize and mobilize on issues of lending inequalities" due to non-disclosure that is "driven primarily by lending industry practices, with the strongest disparate impacts in African-American suburbs. Predatory lending is producing ambivalent spaces of racial – ethnic and gender invisibility" (Wyly, Atia, & Mendez, 2007, p. 2139). However, "a number of national studies , controlling for risk factors like income and/or credit score, have substantiated the strong correlation between race and subprime lending" (Fisher, 2010, p. 105).

Marketing technologies that specialize in "target marketing" have allowed lenders to deliberately market subprime mortgage products to marginalized neighborhoods. "Subprime lenders focused on borrowers with little knowledge of mortgage lending in general and their own financial options in particular" (Fisher, 2010, p. 104). "Other lenders, or the brokers working with them, specifically targeted borrowers already in financial distress and foreclosure for refinancing" (Fisher, 2010, p. 104). Additionally, "there was little incentive to underwrite carefully because the funding lenders rarely kept the loans in their own portfolios, but rather assigned them to upstream purchasers for packaging into pools of mortgage backed securities" (Fisher, 2010, p. 103).

Litigation has arrived concerning the sale of non-equal loans to equally qualified applicants based on race. "Wells Fargo agreed to settle with National Association for the Advancement of Colored People (NAACP) over a lawsuit accusing Wells Fargo of steering blacks into subprime mortgages while giving comparable white borrowers better loan terms" (Stempel, 2010, p. 1) Cities such as Baltimore and Memphis, each of which "have more than 600,000 people, nearly two-thirds of whom identify themselves as black or African-American" have [also] sued Wells Fargo for violations of the Fair Housing Act (Stempel, 2010, p. 1). "Fourteen other lenders are still being sued by the NAACP, including Citigroup Inc, HSBC Holdings Plc and JPMorgan Chase & Co. President Benjamin Todd Jealous in a statement, said the NAACP litigation is designed to change mortgage lenders' behavior (Stempel, 2010, p. 1).

> "State *of Massachusetts v. H & R Block, et al.*, a state court denied a motion to dismiss and issued a preliminary injunction requiring Attorney General approval before proceeding with foreclosures on presumptively unfair categories of mortgage loans. The complaint alleged not only that the defendants engaged in unfair lending practice, but also that targeting was used to steer minority borrowers to inferior mortgages" (Fisher, 2010, p.. 132).

Method

This study is a spacio-temporal examination of RAT to explain predatory crime, designed to identify contextual characteristics surrounding reverse redlining through the identification of anticipated relationships between the following variables: the routine behavior of offenders, target suitability, and the absence of guardianship. The author answers the research questions: RQ 2 Can Routine activities Theory be applied to explain behaviors associated with white collar crime?; and RQ 1 Can Routine Activities Theory be used to conduct a crime specific analysis of reverse redlining?

Research Design

The author embarks on the proposed mixed methods research by using a "problem analysis triangle" to apply Routine Activities Theory to the crime of reverse redlining (POP, 2010, p. 1). The author identifies the contributing environmental factors of reverse redlining as a crime trend. The aggregate impact of social, political and economic trends is measured in terms of influence on the environmental suitability for offender/victim convergence. By using this particular example, the author proves through induction, that in general, Routine Activities Theory can be applied to white collar crime

In this mixed methods analysis, the author uses an inductive approach in the attempt to generate a new application of criminological theory from the constant comparing of unfolding observations (Babbie, 2009). This approach works well in this study to illustrate how Routine Activities Theory can be used to develop a compilation of environmental circumstances that set the stage for white collar criminal behavior.

The "problem analysis triangle" is a tool that "provides a simple and powerful insight into the causes of crime problems" (POP, 2010, p. 1). (see figure 1.) This application first identifies offenders and their handlers, people who are influential in the lives of potential offenders. Next, this application considers the suitability of targets and the relative efficacy of formal and informal guardianship in preventing predatory behavior. Third, this application recognizes specific places where crime occurs and also the managers of these locations that regulate access and behavior of those using the site. The assumption is that crime will take place when handlers, guardians or managers are absent, weak or corrupt. The actors identified in this application each use tools to help accomplish or prevent crime (POP, 2010). These tools are identified in this illustration.

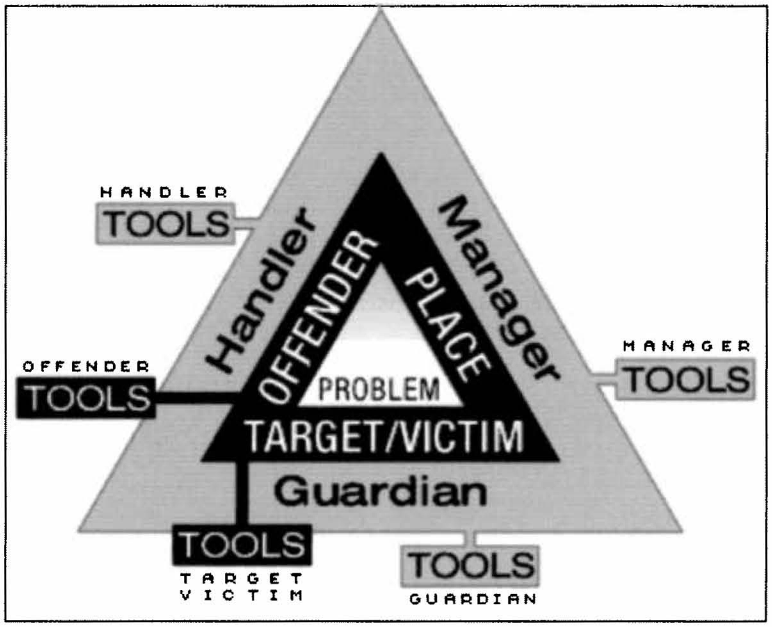

*Figure 1. Problem Analysis Triangle. (*POP, 2010, p. 2)

Sample

The author assembles second source data to complete this application. Such data is extracted from peer reviewed journals, newspaper publications, and federal reports. Focusing only on predatory lending practices, the author examines offenders from the perspective of beneficiaries, victims from the perspective of financial exploitation, and location as geographic and market centers of predatory lending activity.

Measurement

The author then identifies spacio-temporal commonalities as illustrated by the "problem analysis triangle" that are shared by marginalized neighborhoods that were affected by reverse redlining predatory lending practices in the United States during the time period of 2000–2010. The author identifies both micro and macro contextual factors that presented opportunity for the crime of reverse redlining.

Limitations

Few predatory lending convictions have led to insufficient data collection and analysis. Legal precedence that underpins judicial grounds for fighting against predatory lending practices is sparse, particularly because there is not a widely accepted legal definition of the crime.

Moreover, borrowers are not always aware that they have been exploited. This is because there is an enticing buy-in period in which victims were lured into a predatory lending agreement. As is common with most white collar crime, people don't know that they have been victimized until it's too late. Borrowers rarely understand that they qualify for better loan products; that the odds are stacked against their ability to benefit from their investment; and that their welfare is being leveraged against high risk speculation. Victims trust that they are qualified for an affordable loan and don't see beyond the 'hook' which is the most obvious and immediate benefits.

To add anonymity to offenders, loans are sold and resold multiple times. This practice adds a layer of complexity. Once the borrower concludes that they have been victimized, having been stripped of their home equity and/or cash reserves and/or obligated to unreasonable and unaffordable loan terms, they have trouble tracking the legally responsible party. Banks and lending institutions avoid recording trades and acquisitions of the note or instrument of debt with states or counties. They instead use mother companies such as MERS, leaving the borrower in dismay, unable to track the responsible party. These processes ultimately hamper data collection and analysis of predatory lending practices.

To identify reverse redlining, inside of predatory lending, is also difficult as predatory lenders systematically neglected to disclose race and income information as required by the HMDA and CRI. Without these disclosures, the tracking of absolute proportions of subprime mortgage between neighborhoods becomes cumbersome. Never the less, patterns are clear that a disparity exists and that reverse redlining is a contemporary crime pattern.

Analysis

This analysis paints a clear illustration of how the crime of predatory lending carved its niche into a licit lending market. It reveals characteristics of both offenders and their handlers; victims and their guardians; and the market where each converge according to the problem analysis triangle. Through the application of Routine Activities Theory and the problem analysis triangle, a holistic description of the environment surrounding reverse redlining activities emerges. By observing a series of sequential interactions, the circumstances or tools that enable criminal behavior are exposed. There are an infinite number of details that can be applied to describe an environment and no one application can be exhaustive. But this should not diminish the usefulness of such efforts that could identify specific activities, tools, or processes that oblige criminal behavior.

Offenders, Handlers

For the analysis of the crime of reverse redlining, the offender is identified as the loan originator. A loan originator is the first person to have contact with the prospective borrower; they take the loan application and counsel the borrower about the types of loans that would be available. They do not operate in a vacuum; in fact there is a high degree of lateral and vertical interdependency between 'offenders' and 'handlers' throughout the lending process. Handlers are people "influential in the lives of potential offenders" (POP, 2010, p. 1). A lender's handlers include: colleagues; processors; underwriters; appraisers; real estate agents; title officers; mortgage brokers; mortgage insurers, loan servicers; people who operate the secondary market; and investors.

> "The intellectual study of organized crime suffers from at least four major distractions: (a) mixing overall analysis with the requirements of prosecution; (b) understating the diversity of criminal cooperation; (c) underestimating how crime cooperation interacts with legitimate activities; and (d) overestimating the degree of planning and sophistication needed for offender symbiosis to occur" (Felson, 2006, p 7).

In the course of analyzing the organization of predatory lending practices, the author has considered these hazards.

Predatory lenders operate inside of a legal lending market, essentially blending their criminal behavior with perfectly licit business practices. Broad and diverse networks of people are involved in handling loans from procurement to authorizing the closing of the loan. Many of these people interact every day, while others interact for one transaction only. Predatory lending practices grew into a mainstream phenomenon without significant resistance from handlers. The "low reporting rate suggests collusion amongst licit entrepreneurs and criminal organization for the purposes of mutual benefit" (Edwards & Levi, 2008, p. 376). Handlers of predatory lenders mutually benefited from high volumes of high risk loans. Coupled with elusive definitions of predatory lending practices, there was little enthusiasm to act on suspicious behavior. According to the Center for Problem Oriented Policing, "crimes will take place where handlers are absent, weak, or corrupt" (POP, 2010, p. 1).

The systematic reteaming that occurred in each transaction was one tool used by loan originators to avoid detection. With a booming market, there were plenty of choices of appraisers and investors for a predatory lender to assemble. Many times, handlers were far removed from the loan originator, as technology evolved to handle growing volumes. This technology of automated processing was one tool utilized by lenders. It is noteworthy to point out that networks of real estate agents and title officers could transform with each new customer. This was also convenient as discriminatory lending patterns were not readily evident to shifting teams of handlers.

However, some handlers remained constant and reliably corrupt. Consider the predatory loan originator's processor, who verifies that the borrower's loan applications are complete and accurate; assesses whether they meet the standards for the selected loan product; and recommend if the borrowers are qualified for underwriting or denied. By reviewing a borrower's assets, credit score, and confirming employment, a loan processor should have an awareness of the suitability of the borrower for the designated loan. Additionally, the processor evaluates the property by reviewing the appraisal and title. They should also be able to discover if a lender is targeting neighborhoods with predatory loans based on inflated values. Loan processors do not float or change from buyer to buyer; they are stationary fixtures in a lending organization.

Processors provide the first layer of screening for a loan application before it is formally underwritten. A processor should know if the buyer does not have the income to sustain payments or if the terms of the loan do not match the credit risk of the borrower. However, it is not a processor's responsibility to notify buyers that they are over-qualified for the terms included in a subprime loan. This appears to be a loophole in the process from which predatory lenders can maneuver.

To expand on this point, subprime loans are legal and often appropriate for high risk borrowers, but not low risk borrowers. In other words, the 'crime' is in the distribution, not in the merchandise. High fees, balloon payments, steep interest rates and frequent refinancing are all red flags that signify predatory behavior, but they can also be legitimate under the right set of

circumstances. Predatory loan originators sell subprime products legitimately and illegitimately alongside one another, adding yet another layer of distraction. Handlers are part of a network that insulates the offender against recognition by a guardian (Edwards & Levi, 2008, p. 368).
The protection offered by the lending market, in effect, is another 'tool' used by offenders to disguise their crime.

Lenders were paid more for selling subprime loans than they were for prime loans. "All too often, subprime products became predatory" (Squires, 2010, p. 52). The incidence of higher-priced lending increased substantially from about 16 percent of all loans in 2004 to 26 percent in 2005 (Avery, Brevoort, & Canner, 2009, p. 22).

A loan originator typically operates on a commission basis and is compensated in one of three ways: charging the buyer an origination fee; charging the lender a yield spread premium and the buyer a higher interest rate; or a hybrid of both. Loan originators make more money for reselling a loan with a higher interest rate and/or prepayment penalty on the secondary market. Terms of subprime loans include variable rates that lead to an increase in monthly payment or balloon payments that lead to a mandatory refinance if the property value allows. Because of these terms, borrowers refinanced their homes annually or bi-annually, offering lenders steady income. Borrowers rarely paid for lender fees out of savings, but rather out of home equity, effectively relying on inflated home prices.

Subprime loans may also warrant higher processing fees and higher underwriting fees. These fees were originally designed to compensate the lender for high risk exposure.

> "Rates of delinquency, default, and especially foreclosure are much higher in 'subprime' sector of the market which concentrates on 'high-risk' borrowers with low, irregular or unverifiable incomes (such as workers on temporary employment contracts or the self-

> employed) and/or those with poor credit histories and scores (as a consequence of no borrowing record, past failures to meet obligations, or bankruptcy)" (Langley, 2009, p 1404-1405).

However the lenders who sold high risk loans, their processors and underwriters didn't bear any more risk for selling a high risk loan, but they were paid extra loan fees for their services under the pretense that they did.

Likewise, appraisers (handlers) have the ability to make or break real estate contracts with their evaluation. Appraisers who broke too many contracts by valuing properties under the contracted price didn't get repeat business. Bloomberg quoted Jonathon Miller, the CEO of Miller Samuel Inc., as saying "About three quarters of residential mortgage appraisals are arranged through brokers who only get paid if a loan closes. The practice is ``laughable" because it creates a financial incentive for mortgage brokers to push appraisers toward higher valuations. Higher appraisals also mean more homeowners qualify to refinance their homes and take cash out. (Bloomberg, 2008, p. 1). "There was little incentive to underwrite carefully because the funding lenders rarely kept the loans in their own portfolios, but rather assigned them to upstream purchasers for packaging into pools of mortgage-backed securities" (Fisher, 2008, p. 102-103). Lenders usually have a contract for resale before actually closing a high-risk loan, effectively bypassing the bulk of risk.

The resale is worth exploring. The Real Estate Settlement Procedures Act (RESPA) requires that title companies issue "a Mortgage Servicing Disclosure Statement, which discloses to the borrower whether the lender intends to service the loan or transfer it to another lender" (HUD.gov, 2010, ¶4). This disclosure is another tool used by predatory lenders. By signing the

Mortgage Servicing Statement, borrower acknowledges that their loan could be sold, assigned or transferred to a different servicer among other things. This statement is misleading as borrowers rarely understand that the servicer doesn't actually own and transfer ownership of the note. Behind the servicer, is an entire infrastructure of people that packages, resells, and re-collateralizes their debt. It is not immediately obvious to the lay person that they would need to know who owns the debt, beyond where to make the payment. However, should the terms of a loan need to be renegotiated, this matter comes into play.

Servicers, as handlers, do not share the same interest as the borrower or investors in the fate of a loan that they oversee. Rarely is a servicer inclined to mitigate these issues of default that commonly ensue after the procurement of a predatory loan. In fact, some servicers have counter-agenda. Banks who participate in the servicing of high risk loans, also hedge investments against the performance of borrowers by participating in the credit default swap (CDO) market. In the simplest of terms, servicing companies profit from defaulting borrowers. In this right, servicers were handlers that also benefitted from predatory lending behavior. Borrowers are disenfranchised from investors for the sole benefit of the middlemen. Loan originators benefit from this process because servicers intercept direct communication between the two stakeholders and allow predatory lending to go unchecked. This point will be revisited in the Place/Manager section.

Servicing banks often have subsidiaries that are paid to service real estate owned (REO) properties once foreclosures are complete. They hold servicing contracts for which they are compensated for the difference between debt value (the value of the debt encumbering the property which is not synonymous with the amount owed) and the actual net payoff to the servicer of the foreclosed property at the time of sale. This is an additional disincentive for a servicer to blow the whistle on reverse redlining activity, which is another procedural advantage for the predatory lender.

Lax lending guidelines set forth by the secondary market, such as higher debt to income ratios, no/low documentation, or no down payment loans, discouraged processors and underwriters from censuring predatory lending behavior. Handlers who may have been skeptical about a borrower's ability to repay a loan could not reject the borrower if the underwriting standards were met, nor were they incentivized to reject compensation especially if the borrowers default held no consequence. Lax lending guidelines allowed for closing costs, down payments and repairs to be financed into the loan. Loans were sold to buyers that exceeded the property's value. " In many cases, loan officers and mortgage brokers- without borrowers' knowledge-concocted false income and assets and ordered inflated appraisals, all to obtain mortgages generating large profits for themselves" (Fisher, 2010, p. 102).

Real estate agents prefer loan originators who can get difficult loans done. Real estate agents were writing contracts for borrowers knowing that the borrower could not turn around and resell the property without having to bring cash to the table. Borrowers were upside down from the start without cash reserves. Their fate was foreseeable to many handlers, but particularly to those who designed the underwriting guidelines. This too will be revisited in the Place, Manager Section.

The following of the interaction between handlers and offenders is designed to highlight the "diversity of criminal cooperation" that exists when criminal practices infiltrate legitimate business practices (Felson, 2006, p. 7). This example is a hypothetical, yet all too common.

Jane the real estate broker found a property that was marketed at a price of $100, 000 and needed repairs. Joe, her client offered $115,000 to the seller, and then wrote a provision in the contract that $7,000 would be applied to Joe's closing costs and that $8,000 would be returned to Joe for repairs. Jane confirmed with Joe's lender that he would be financed with an 80 percent first mortgage and a 20 percent second and that he wouldn't be bringing cash for a down payment or for loan costs. The seller (handler) was satisfied with a full price offer. Joe was satisfied that he did not have to pay for the lender fees, repairs or down-payment. The real estate agent (handler) was satisfied with a higher commission based on the $110,000 rather than on the original price of $100,000. The loan originator was happy that their fees were not heavily scrutinized by the Buyer, because after all, the seller was 'paying the lender fees'. The lender, who was targeting a particular neighborhood, would also be satisfied knowing that a higher comparable sale existed, intrinsically inflate the neighborhoods' property values for other refinance opportunities.

In this scenario, the seller, the seller's agent, the buyer, the buyer's agent, the lender, the appraiser, the title company, the processor, and the mortgage insurer examined the real estate contract and knew the property value was inflated. The lender and processor, at least, knew the buyer did not have cash reserves to be able to sell the home and pay the closing costs. If the terms of the loan included a 1-year arm with a 5 year balloon and 5-year prepayment penalty and Joe the borrower did not have the income to support the upward adjusted payments, combined with the fact that Joe could not sell at the full inflated value, then Joe, predictably, would become a candidate for foreclosure.

The housing bubble cushioned people like Joe. From 2000-2006 the S&P/Case-Shiller Home Prices Indices reported an increase of over 100 percent in property value over a twenty city composite rating (S&P/Case-Shiller, 2008, p.1) (see appendix 1). This growth was not sustainable. Victims of predatory lending practices were unable to repay their loans or sell their homes that were worth less than what was owed. Many people were unable to reach successful negotiations with their mortgage servicers to find remedy. The Census Bureau reported that single family household sales plunged from late 2005 until the first quarter of 2009 (Census, 2010) (see appendix 2). Homeownership followed suit (see appendix 3) and foreclosure rates intensified.

> "Even as the worst housing market correction in more than 60 years appeared to turn a corner in 2009, the fallout from sharply lower home prices and high unemployment continued. By year's end, about one in seven homeowners owed more on their mortgages than their homes were worth, seriously delinquent loans were at record highs, and foreclosures exceeded two million. Meanwhile, the share of households spending more than half their incomes on housing was poised to reach new heights as incomes slid" (JCHS, 2010, p. 3).

"Evidence is mounting that certain subprime lenders deliberately sought out financially vulnerable borrowers for deceptive sales tactics and predatory mortgage loans" (Fisher, 2010, p. 102). Marginalized neighborhoods were disproportionately affected.

Target/Victim, Guardians

At the heart of Routine Activities Theory "is the idea that in the absence of effective controls, offenders will prey upon attractive targets" (POP, 2010, p. 1). Victims of reverse redlining are people living in marginalized neighborhoods where there is an intersection of non-dominate race and low-income status and are targeted by lenders for predatory lending practices.

> "On average, moving from the bottom decile to the top decile of minority representations reduces a county's estimated subprime foreclosure rate by about 27.25%, after

> controlling for other factors. These results suggest that the interest rates that lenders charge in minority areas are not commensurate with the risk profiles of these areas' residents. Given the same estimated number of foreclosures, and also holding all else constant, a predominantly minority county is likely to have more subprime loans than a predominantly white county. That is, for the same risk level, lenders apparently charge higher interest rates to residents of predominantly minority areas" (Louis, 2009, p. 2-3).

Minority homeowners have a history of low homeownership levels. "HUD reported that there are multiple barriers that prevent minority families from becoming homeowners that include "lack of capital for the down payment and closing costs; lack of access to credit and poor credit history; lack of understanding and information about the home-buying process, especially for families for whom English is a second language; regulatory burdens imposed on the production of housing; and continued housing discrimination" (U.S. Department of Housing and Development, 2010, p.1).

Traditionally homeownership is equated with "the promotion of increased wealth accumulation, improved property upkeep, decreased residential mobility, and increased community participation" (Scanion, 1998, p. 1). Both Presidents Clinton and Bush addressed the racial gaps of homeownership as cornerstone of their housing policy. In 1994 Clinton addressed HUD Secretary Henry Cisneros in a letter that reads in part:

> "...Homeownership strengthens families and stabilizes communities. ... Today, I am requesting that you lead an effort to dramatically increase homeownership in our nation over the next six years. ... Your program should include strategies to ensure that families currently underrepresented among homeowners – particularly minority families, young

> families, and low-income families - can partake of the American Dream" (Clinton as cited in Haurin & Rosenthal, 2004, p. 11).

In 2002 President Bush similarly announced that:

> "The goal is that everybody who wants to own a home has got a shot at doing so. The problem is we have what we call a homeownership gap in America. Three-quarters of Anglos own their homes, and yet less than 50 percent of African Americans and Hispanics own homes. That ownership gap signals that something might be wrong in the land of plenty. And we need to do something about it" (Bush as cited in Haurin & Rosenthal, 2004, p.11).

But for many minority and low-income borrowers, the 'problem in the land of the plenty' worsened as criminal predatory lending behavior emerged in the landscape of opportunity. Low income households were less resilient to default and foreclosure than higher-income households because of higher unemployment rates, more volatile housing prices, and less access to credit (JCHS, 2010, p. 11). No income, no asset, no credit subprime loans were designed to incorporate higher risk borrowers into the market. Contrary to belief, the pattern of lending abuse in marginalized neighborhoods is not a continuum of bad borrowing decisions among low-income and minority borrowers, but a profitable complex market-wide scheme that produced exponential losses totaling 196.7 trillion dollars by 2009 (Schecter, 2009).

"Low-income home ownership increased over the course of the 1990's and the early part of this decade as a result of the expanded availability of the mortgage credit to low-income borrowers" (Garasky et al., 2008 p. 229). But upon close examination it was the conventional, subprime, less regulated mortgage market, that was filled with low-income and minority borrowers. These borrowers were once on the periphery of qualified applicants prior to the underwriting change that opened up subprime loans. In order to continue the growth in the housing markets, underwriting qualifications expanded to oblige previously excluded untapped populations.

The Government Accountability Office reported that from 1996 to 2005 subprime mortgages rose in "census tracks with both the highest concentrations of minorities and low median incomes, where FHA's market share fell 31 percentage points and subprime market share increased 28 percentage points (GAO, 2007, p. 15) (See Appendix 4). One of the reasons that FHA loans lost market share is because lenders had to be certified to sell them. Lenders did not have to be certified to sell conventional products in many states. FHA loan programs have requirements that conventional subprime loans do not. FHA loan programs require, for example, that the borrower go to a home buying class; that they have a bank account with cash reserves; that the borrower purchase mortgage insurance; pay for low down-payments; and that the borrower purchase a property that meets OSHA safety standards. Conventional 80/20 combo loans did not have such requirements. For example, homes in low income areas that needed repair and did not meet OSHA standards, could not be marketed to FHA buyers. This is another barrier effectively decreasing the protection offered by FHA loans in marginalized neighborhoods. Combined with the extra borrower requirements, documentation, and property condition requirements, the FHA tide retreated as subprime loan products surfaced in marginalized neighborhoods (see appendix 5).

People moved from poverty to homeownership without safety net. People in marginalized neighborhoods who were least likely to hold alternative savings and investment sought out conventional and subprime lenders who did not require such things as proof of reserve funds.

> "A series of studies has explored the phenomena of the "unbanked"-those who remain outside mainstream banking…between 10 and 20% of all U.S. households are unbanked; they have neither a checking or savings accounts…Rates of being unbanked are higher for low-income families compared to higher-income families. Those without banking relationships are also more likely to be less educated, non-white, younger, unemployed, immigrants and renting rather than owning their residence…the unbanked often seek out businesses in the fringe economy – those businesses that engage in financially predatory practice and charge excessive fees and prices for their goods and services" (Berry; Washington, Hogarth & O'Donnell; Kinnickell et. al.; Caskey; Karger; Rhine; Greene, & Toussaint-Comeau as cited in Garasky et al., 2008, p. 227-228).

Home equity is a common way for people with no other means of saving, to build wealth and financial security. People in marginalized areas saw opportunity to build wealth by purchasing property in neighborhoods with unprecedented and rapidly increasing property values. The expectation was that the monthly payment would pay down the mortgage and also that equity would grow from appreciated of value. But this was rarely the case with subprime loans. Some adjustable rate mortgages jumped from 1% to 8% in just one month, and equity was leveraged from the beginning of the loan to pay for lender fees and related closing costs.

People in low income neighborhoods were suitable targets for home equity lines of credit (HELOC). The HELOC offered an opportunity for borrowers with high credit card payments to reduce their payments by collateralizing credit card debt with their home equity. It wasn't long before new homeowners could obtain home equity loans. Many times borrowers would receive solicitations for HELOCs in the mail the day they moved in. Low income borrowers who took advantage of HELOCs would receive a credit card granting instant (often artificially inflated) liquidity on their only wealth building asset. What equity that had accrued, even in an artificially inflated market, was leveraged by their HELOCs.

> "Home ownership can have shortcomings for low-income families. Lenders that base mortgage amounts on inflated home values or allow home owners to borrow at levels that are greater than 100% of home values leave families economically vulnerable to housing market downturns which may result in foreclosures, lost home equity and possible homelessness" (Karger as cited in Garasky, 2008, p. 229).

The convergence of target and predator was twofold. Not only were borrowers seeking predatory lenders, but predatory lenders simultaneously targeted low income and minority borrowers. Lenders engaged in target marketing, "ranging from sophisticated demographic analyses of defined geographic areas to arrangements with local brokers in low-income urban neighborhoods" (Fisher, 2008, p. 104). Many times subprime brokers steered targeted populations by race, ethnicity, age or gender or other personal characteristics unrelated to creditworthiness into higher priced subprime loans when they qualified for prime terms (Carr & Kolluri, 2001).

Researchers continue to observe the disproportionate fallout of reverse redlining practices to targeted populations. "Differential costs of loan origination and the competitive environment also may bear on the differences in pricing, as may differences across populations in credit-shopping activities. Differences in pricing and underwriting outcomes may also be due to discriminatory treatment of minorities or other actions by lenders, including marketing practices" (Avery, 2008, p. 36). Inexperienced borrowers shopped loans less and therefore knew less about the array of loan products that were suited to their credit status. For example, loan origination fees evident on a Good Faith Estimate are obvious, but yield spread premiums are not and could easily be hidden from an unsuspecting borrower.

There are multiple governmentally designated guardians that oversee discriminatory and predatory lending practices and field consumer complaints. These guardians include the following organizations: the Federal Deposit Insurance Corporation, Division of Compliance; Department of Veterans Affairs, Consumer Affairs Service; Comptroller of the Currency, Compliance Management; Department of Agriculture, Rural Development/Rural Housing Services; Office of Thrift Supervision, Consumer Affairs Division; National Credit Union, Administration; Federal Trade Commission, Consumer Response Center; and the Federal Reserve Board, Division of Consumer and Community Affairs. (MortgageQnA.com, 2010, p.1).

Few borrowers understood that they were victimized by reverse redlining practices. Letters of complaints from such victims were met with little assistance or a series of procedures for assistance that the lay person could not readily understand. People who were in the position to seek help had little resources to offer legal counsel to help them through the complexity of the complaint process. States continued to enforce foreclosure proceedings and evictions without much regard for the patterns of predatory lending practices in their municipalities.

The media did not entertain public announcements about reverse redlining practices to try to educate people about reverse redlining in order to decrease target suitability. Many victims of predatory lending practices were and continue to be the subject of public scrutiny for having borrowed more money than they could afford to repay. Lenders were scrutinized for selling subprime loans, for targeting the highest risk borrowers, for selling ‘bad’ loans to ‘good’ people.

The blame game set in. Still, there were guardians who were responsible for maintaining the integrity of the affordable lending market.

Managers/Place

The problem analysis triangle requires the examination of the 'place' in which targets and offenders converge. "Someone owns every location and ownership confers certain rights to regulate access to the site and behaviors of people using the site. The owner and the agents of the owner look after the place and the people using the site" (POP, 2010, p. 1). In this case, the 'place' of convergence is not a room or building, but rather a combination real estate and financial markets where criminal activity was not only tolerated, but incentivized.

The investigation of place involves examining "which way influence flows" (Felson, 2006, p. 8). That is to say, reverse redlining can't be fully understood in isolation of market pressures. Understanding market processes and lack of place management is central to understanding the crime of reverse redlining.

This analysis begins at the point of intersection of the real estate and financial sectors in a time of significant regulatory change. In 1999 Financial Services Modernization Act was passed, which repealed part of the Glass-Steagall Act of 1933. The Glass-Steagall Act was enacted after the Great Depression in order to keep investment, banking, and insurance companies separate to preserve the integrity of the market. The Financial Services Modernization Act of 1999 allowed f large companies to house banks, securities firms, and insurance companies, despite potential conflicts of interest. From 2000-2010, newly formed conglomerates exerted tremendous market influence. These mega-companies influenced the lending and investment markets with the stroke of each merger.

Citigroup, Wells Fargo, Chase, and Bank of America; together with large investment firms such as Merrill Lynch, Lehman Brothers, Goldman Sachs, Morgan Stanley, and Bear Searns; and large insurance companies such as AIG were able to design tools to move the real estate and investment markets in a particular direction aimed at corporate profit. "While the Wall Street community continues to fund corporate expansions and mergers blurring the lines of numerical integrity, Congress remains an enabler of that status quo" (Prins, 2006, xi). At a time of deregulation, corporations had the financial base control both supply and demand. The scope of corporate influence has been referred to as legalized racketeering by the media. The worlds of finance, insurance and investment were so intermingled that the welfare of the market (investors and homeowners alike) was compromised.

Wall Street traders and executives encouraged large investments into mortgage-backed securities which paid higher returns than Treasury bills. Banking conglomerates would purchase loans, bundle the loans, have each of the bundles insured, and then resell them as securitized assets to investors. These contracts for bundled loan purchases were in place before the sale of subprime mortgages were procured and Wall Street traders were compensated for each transaction. "The subprime and predatory binge was fueled by Wall street investors who bought, repackaged, and sold mortgage loans, often relying on ratings from agencies compromised by a conflict of interest" (Squires & Hyra, 2010, p. 52).

Once corporate firms were able to increase supply of money to lend, they were obligated to increase demand for home loans. The catch, or crime, was that in order to make good on their mortgage-backed security investments, these large banks/investment houses also had to increase the demand in the real estate market for home loans. Supply of capital increased without a sufficient demand for mortgages. These firms created market "suction" for expanded lending and housing price inflation (Schecter, 2009).

"The debt binge not only fueled consumption but also helped to inflate home prices. All told, the aggregate value of household real estate jumped 76% in real terms from 2000 to 2006" (JCHS, 2010, p. 30). Historically, houses in marginalized neighborhoods did not increase in value as fast as other neighborhoods and real equity was very slow to materialize. Homebuyers had been discouraged to invest in such a neighborhood for investment purposes. But something changed as inner city gentrification began to permeate traditionally segregated and underserved areas in 2000. Gentrified properties allowed appraisers to justify higher values for both purchases and refinances among long time residents. Lenders took advantage of this untapped market and pushed purchases, cash-out refinances and home equity lines of credit. With pressure to increase demand for debt, homes that traditionally could not be considered sufficient collateral suddenly qualified.

Housing prices began to decline in 2005 and 2006 and by 2007, the subprime lending market bottomed out. The decline mostly affected low-income neighborhoods that were artificially inflated. Most homeowners in these areas were first time homeowners without real equity to pad the market volatility. Additionally, most victims were sold Home Equity Lines of Credit to leverage ghost equity resulting in upside down mortgages.

Inflation was one of the byproducts of HUD's Affordable housing policy. In 2000, HUD issued a rule, significantly increasing the GSE's affordable housing goals for the post-2000 period. For each year from 2001 through 2003, the goals increased from 42 percent to 50 percent for low-and moderate-income borrowers; from 14 percent to 20 percent for very low-income families in low income areas; and from 24 percent to 31 percent for units in underserved areas. To meet these goals, the secondary market agreed to purchase loans with lower credit and down payment standards to beef up the demand for lending. The subprime mortgage market continued to explode as affordable housing goals increased. Many more people from marginalized neighborhoods qualified that previously hadn't. Many new subprime loans were sold under the 'affordable' home loan push.

To be sure, there were three significant tools designed to turn bad debt into corporate profit. The first essential tool was the 'asset-backed security'. Aggregate pools of bad debt were converted into 'asset backed securities'. Investment houses treated these securities as assets, even though debt is not actually an asset. The premise was that the asset is the cash flow brought about by a promissory note that is completely dependent on the borrowers' repayment of the loan, and in the case of default, of the actual resale value of the collateral. This asset backed security acted as a tradable instrument.

> "As lending standards fell, banks began creating what were termed collateralized mortgage (or debt) obligations, in which the shares in a mortgage-backed security were organized into different levels (or tranches) according to their perceived risk. Billions of dollars in these instruments were sold and resold. As the mortgage market soured in 2007, the financial world came to two sickening realizations about mortgage-backed securities. They were not nearly as safe as had been expected -- partly because securitization meant that banks originating loans for a quick sale did not have to be as careful about their soundness as when they held mortgages to maturity" (NYT, 2010, p. 1).

A second tool used by the banking/investment companies was the credit rating of the investment companies who sold asset-backed securities to the unsuspecting investors. Investors believed that the investments were sound. For example, Bear Stearns sold high risk asset backed securities under the precipice of the company's overall AAA credit rating. Members of Bear Stearns, for example, were later arrested for such fraud by the FBI after the housing meltdown in 2008 (FBI, 2008, p. 1).

A third tool was the 'credit derivative' product. Credit derivatives were used to change the credit quality of the asset backed security, by adding a layer of insurance to the holder of the asset backed security. It is also worth noting that derivative insurance policies were not just sold to holders of asset-backed securities. Anyone who had the foresight to recognize that high risk mortgages would eventually default could purchase shares of this derivative insurance without having to purchase a bond. It was similar to betting the 'don't pass' line in the game of craps. Mortgage servicing companies purchased derivatives from insurance companies against the pools of mortgages that they were trading amongst each other. The Wall Street Journal suggested that the "walls between banks' lending operations and their trading desks may have broken," recognizing that these servicing companies (large banks), who were in position to implement foreclosure on homeowners (victims of reverse redlining), were also in position to benefit from their derivative policies (Sender, 2002, p. 1).

Revisit the borrower who aims to track down the owner of their note to negotiate remedy to their defaulted loan. At the point that they reach beyond the servicer to locate the investor, or the person that they supposedly owe, they would see the tracks diverge. According to Felson, "required concealment is directly proportional to the privacy of the setting and inversely proportional to the size and quantity of contraband, as well as the transition time required by the crime" (2006, p. 11). The level of privacy changes from a very public exchange between borrower and loan originator to a very private and complex secondary market. The owner of the deed of trust and promissory note changes rapidly from mortgage servicer to mortgage servicer, bulk package to bulk package and then to an aggregate pool of securities from which shares are sold and speculative betting begins. Shareholders, in the end, hold portions of various notes. Not one investor typically held any one note. This process is intended to spread the risk across investors so that they don't have all their eggs in one basket. Then the servicers act to service the bulk of loans spread amongst many investors. However, servicers hold their own interest separate from homeowners and investor stakeholders, and often in direct conflict with each. Therefore homeowners and investors, by way of separation several times removed, had little success the mitigation of defaulting loans. Servicers under staff loss mitigation departments, restrict email and phone communication lines in the departments and with little transparence all resulting in contract expiration and ultimately foreclosure. After the issuance of TARP, the troubled asset relief program, lawmakers pressured bank servicers to step up their efforts at loss mitigation. Still, in August of 2009, Bank of America had only sought to address 7% of their eligible loans (Bloomberg, 2009).

With so many vested parties interacting without equal leverage, guardianship is vital. The "owners and agents of the owner" are the people who govern and guard the integrity of the market. Some of the organizations with direct oversight over banking, insurance and investment include: the U.S. Congress, the Treasury, the Securities and Exchange Commission, the Justice Department, the Federal Reserve, Department of Housing and Urban Development, governmentally sponsored entities, private mortgage insurers; Federal Deposit Insurance Corporation; and the Financial Industry Regulatory Authority. For market failure to occur, one could argue that each of these organizations had to be "absent, weak or corrupt" (POP, 2010, p. 1).

One could indeed argue that the U.S. Congress was absent, weak, and/or corrupt. Congress lacked foresight "not least because they, their corporate sponsors, and even their middle-class constituents were reaping the benefits of the boom" (Prins, 2006, p3). Congress pressured the secondary market of GSE's to maintain their profits and market share even if it meant purchasing risky loans. In 2005 the Treasury Secretary, John W. Snow, testified that he "shared the commitment made by the President to expand home ownership to 5.5 million more minority homeowners by the end of the decade" but that he felt the need for financial regulatory reform to reduce current risks that threatened the "solvency, the stability of other financial institutions and the strength of our economy" (Office of Public Affairs, 2005, p. 1). However, Mr. Snow's plan to regulate the Federal Home Loan Banks was not acted upon until the Consumer Protection Act of 2010.

The Securities Exchange Commission carried the burdens of failed audits of the GSE's and large investment companies when they gave no indication of collapse prior to an imminent credit freeze and need for public bailout. The Securities Exchange Commission's mission is to "to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation" (SEC, 2010, p.1). However, they have been repeatedly charged with ignoring warnings by independent auditors and investigators. For example Harry Markopolus, Independent Financial Fraud Investigator and Madoff whistleblower testified in front of the House Financial Services Committee that he was ignored for 9 years by the SEC. He reported that "the SEC is captive to the industry it regulates and it is afraid of bringing big cases against the largest, most powerful firms" (Markopolus, H., 2009).

The Justice Department was among the absent/weak. After 2001 the Federal Bureau of Investigation downsized corporate crime unites to cover terrorist activities. Only after the predatory lending patterns and trends became prolific, the FBI initiated "Operation Malicious Mortgage" from which resulted in 144 mortgage fraud cases in which 406 defendants were charged. The FBI estimates that approximately $1 billion in losses were inflicted by the mortgage fraud schemes employed in these cases (FBI, 2008, p. 1). High profile offenders were pursued. It wasn't until 2008 that the FBI began investigating the fraudulent activities that spurred the financial collapse of AIG, along with Freddie Mac and Fannie Mae (Arena, 2008, p. 1). It is worth noting that while members of the Justice Department pursued offenders, their mission was to prosecute the offender for breaking the law and in effect, harming the state. The offender restores the state, not necessarily the victim. In this right, the victim is not made whole and neither is the market.

The Federal Reserve also stood weakened. In response to the economically devastating events of September 11, 2001, the federal reserved dropped the federal funds rates from 6.5 percent in 2000 to 1.75 percent in 2001 to stimulate the economy (FRB, 2010). The supply of low interest rate loans increased rapidly which in turned fueled the housing boom. However, after the bust, the Federal Reserve was unable to exercise this tool of being able to drop the rates substantially further for purposed of stimulation, as the rates were already bottomed out. This is their primary tool used to maneuver the credit markets that they no longer had available.

"In most cases the mortgages were guaranteed by a third party: a government agency like Ginnie Mae, Fannie Mae, or Freddie Mac or a private insurer (NYT, 2010, p. 1).The department of HUD, who oversaw the GSE's were also weak. In fact, the annual examination of Fannie Mae for 2008 reported that there were "severe financial, nonfinancial, operational, or compliance weaknesses" causing it to be transferred from the Department of Housing and Urban Development (HUD) to the Federal Housing Finance Agency (FHFA). In 2004 lenders were "threatening to sell directly to Wall Street unless Fannie bought a bigger chunk of their riskiest loans" (Duhigg, 2008, p. 1). Daniel H. Mudd, former chief executive of Fannie Mae, "disregarded warnings from his managers that lenders were making too many loans that would never be repaid, and steered Fannie into more treacherous corners of the mortgage market…Between 2005 and 2008, Fannie purchased or guaranteed at least $270 billion in loans to risky borrowers- more than three times as much as in all its earlier years combined, according to company filings and industry data" (Duhigg, 2008, p. 1).

GSE's along with Private insurance companies such as AIG insured asset backed securities even though the securities were high risk and were likely to default. Each mortgage insurance policy produced and attractive cash flow for investors. Private insurance companies such as AIG also sold credit default swaps, so that without having to purchase a bond, they could receive a steady flow of revenue as long as the bond was performing. Such insurers became overextended as they insured more policies than they could afford to payout. After the fall of the housing market in 2006, they became insolvent. "In total, AIG had sold protection on $527 billion of asset backed securities (Carney, 2010, p. 2).

The Federal Deposit Insurance Corporation was created in 1933 after the Great Depression to preserve and promote public confidence in the U.S. financial system by insuring deposits in banks and thrift institutions for at least $250,000; by identifying, monitoring and addressing risks to the deposit insurance funds; and by limiting the effect on the economy and the financial system when a bank or thrift institution fails" (FDIC, 2010, p.1). However they were not able to fully carry out their duties as guardians. They weren't given the power to seize and dismantle large banking institutions, as they had could state chartered banks, until the passage of the Dodd-Frank Financial Reform bill in 2010. Due to this weakness, they began to experience failed assets. In 2009 the FDIC "quietly asked Congress to provide up to $500 billion in Treasury loans to repay depositors… The total assets of banks on the problem list was nearly $300 billion, and more of these assets are turning bad faster than banks can put aside reserves to account for them" (WSJ, 2009, p. 1).

> "We've witnessed through the bankruptcy and scandal period, Corporations only draw down on their credit lines in extreme emergencies, like fraud disclosures, executive indictments and bankruptcies… The risk is ultimately taken by the Federal Reserve, the last line of bailout defense if dire circumstances require it, and by the taxpayers, as the commercial banks extend credit lines with depositor money insured by the FDIC. None of this stops banks from extending additional credit to corporations that are obviously in peril. Meanwhile, there is no regulatory mechanism that compels banks to publicly disclose the exact nature of impaired loans, that is- loans for which the ability of debtors to repay has deteriorated but not yet stopped completely" (Prins, 2006, p 52).

This lack of disclosure affects the viability of the Financial Industry Regulatory Authority, which is independently owned and operated for the sole purpose of regulating securities firms doing business in the United States. "FINRA touches virtually every aspect of the securities business—from registering and educating industry participants to examining securities firms; writing rules; enforcing those rules and the federal securities laws; informing and educating the investing public; providing trade reporting and other industry utilities; and administering the largest dispute resolution forum for investors and registered firms" (FINRA, 2010, p. 1). Similar to the SEC, FINRA remained absent. FINRA was either unable or unwilling to detect the prevailing systemic fraud that threatened investors, impending Credit Derivative failures, mortgage-backed security fallouts, and hollowed collateralized debt obligations that loomed in their investor's portfolios.

These guardians were overshadowed by the large mega-companies that grew out of the repeal of the repeal of the Glass-Steagall Act. Their collective failure not only hurt investors and the U.S. economy as a whole, but more poignantly resulted in the spread of the predatory subprime lending market targeted at low-income and minority populations.

Offender convergence settings are places that set the stage for crime by assembling accomplices and getting an illicit process started" (Felson, 2006, p. 91). The intersection of the financial and real estate markets, without guardianship, resulted in the victimization of marginalized neighborhoods through the practice of reverse redlining.

Conclusion

This application of Routine Activities Theory provided a comprehensive understanding of the crime of reverse redlining. Through the Problem Analysis Triangle, actors (offenders/ handlers, victims/guardians, and place/managers) were identified. The routine activities of actors and the resulting flow of influence surrounding reverse redlining provided insight to a selection of ways to intervene in this criminal behavior.

First, by identifying offenders and their handlers, and the sequence of the loan transaction, it became apparent that a pattern of reverse redlining was difficult to detect. Even when these practices were detected, few people saw it as their responsibility to blow the whistle. This was partially because of a changing team of handlers, obstructed communication, a conflict of interest, and unclear definitions of the crime. Technology designed to process large volumes of loans hindered crime pattern detection instead of helping to discover it. The same loan product with high risk terms could be used as a predatory instrument and could also be used appropriately; there were no safeguards in place for legal distribution. The two real stakeholders, borrower/victim and investor, were separated by layers of privacy walls and people with dissimilar interests as their only source of mediation. Underwriting guidelines were such that loans that were unaffordable in the long run would be sold and processed as affordable loans, based on short term figures; a sort of planned obsolescence. As with many white collar crimes, profits to stakeholders were inversely related to the benefit to the consumer. Predatory lending was both a problem of system, organizational culture, and regulatory malaise.

Second, the demand for home loans was finite. As the supply of investment increased, borrowers who were on the periphery of being able to afford a home appeared as a new consumer base; a consumer base that had faced historic barriers to credit access and wealth building. Political momentum grew around moving people in marginalized neighborhoods into the circle of homeownership. Underwriting guidelines followed suit. Home loans were sold to people who did not have the credit history or income to support repayment. Overvalued properties were used to collateralize such loans. Lenders profited more for selling high risk loans, and used targeted marketing strategies to sell them in marginalized neighborhoods. Soon, low income borrowers were upside down in debt, faced with unaffordable terms and unable to sell their homes. Foreclosures sank neighborhood market values compounding problems for other homeowners who needed high priced comparison properties for their refinances. Neighbors were upside down as well bringing low income neighborhoods to the forefront of the foreclosure trend.

Third, the managers of the lending market were corporate conglomerates that had undergone deregulation through the repeal of the Glass-Steagall Act. Unchecked market forces became relevant effectively creating a 'suction' that inflated demand for high risk mortgages. Predatory lending behavior emerged out of pressures to expand loan sales to a fixed population of unqualified borrowers in a deregulated environment. Managers of the market were either absent, weak, or corrupt. This white collar crime became prolific throughout political and corporate spheres of influence in America, while marginalized neighborhoods vacated.

Only by following the sequence of activities and identifying key tools and processes used by an offender can one begin to entertain change. Similarly, by understanding what makes a target suitable, one can take steps to harden the target or increase target resilience. Identification of absent, weak and corrupt guardians is essential to the management of the place where offenders and targets converge. The problem analysis triangle is a great tool to begin the application of Routine Activities Theory to white collar crime.

This model investigation of the trend of reverse redlining illustrates that Routine Activities Theory can be applied to investigate behaviors associated with white collar crime. The environmental approach offers more to crime prevention that just apprehension. It involves identifying crucial tools, procedural junctures, and flows of influence that enable white collar crime to survive. The practitioner can then most effectively target and eliminate the enabling mechanisms from which such illegal practices survive.

Implications

Routine Activities Theory is an effective application for understanding the contextually significant characteristics of predatory white collar crime. Just as this application was useful with reverse redlining, it could be applied to understand other predatory white collar crimes. Future research would include antitrust violations, insider trading, telemarketing fraud or computer fraud. These are prime examples of white collar crimes that involve predatory illicit behavior inside of licit markets. By taking specific cases and applying the Routine Activities Theory by way of the problem analysis triangle, a sequence of processes and enabling tools would emerge. By using this approach researchers and practitioners investigating white collar crime could discover a more comprehensive menu of options from which to effectively address behaviors associated with these predatory crimes.

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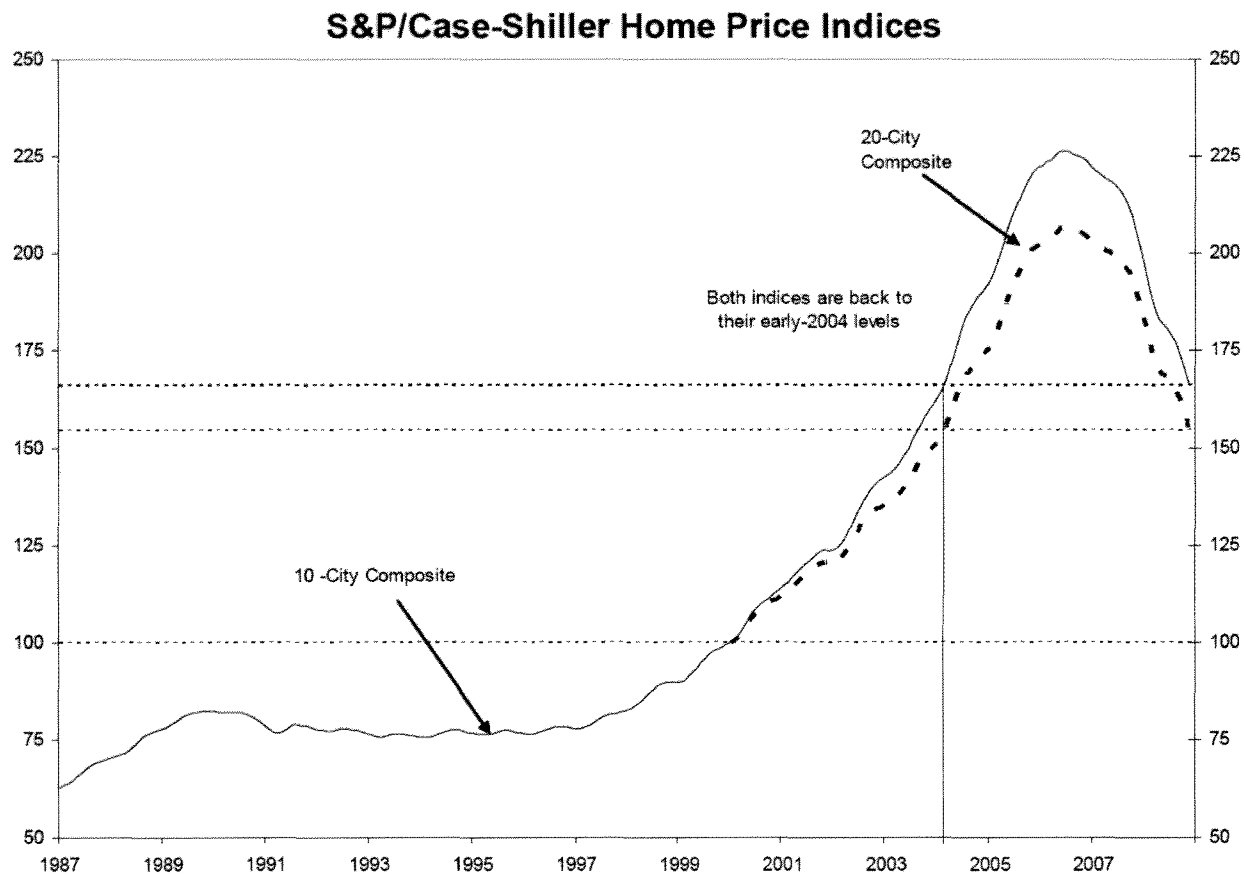
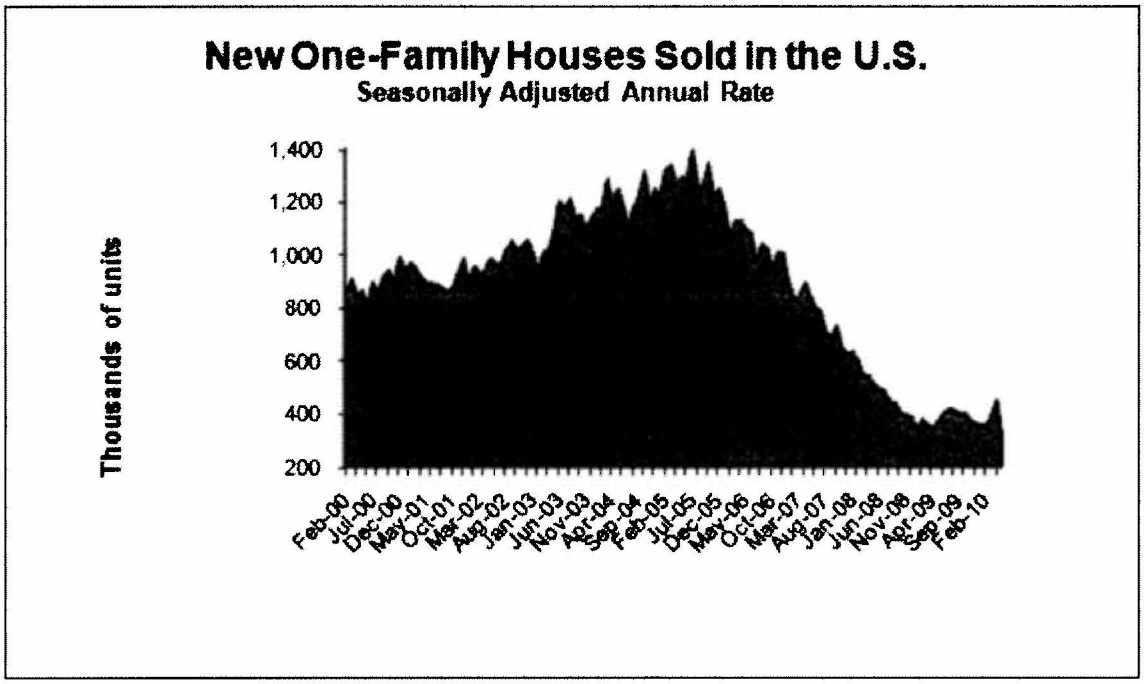
Appendix 1



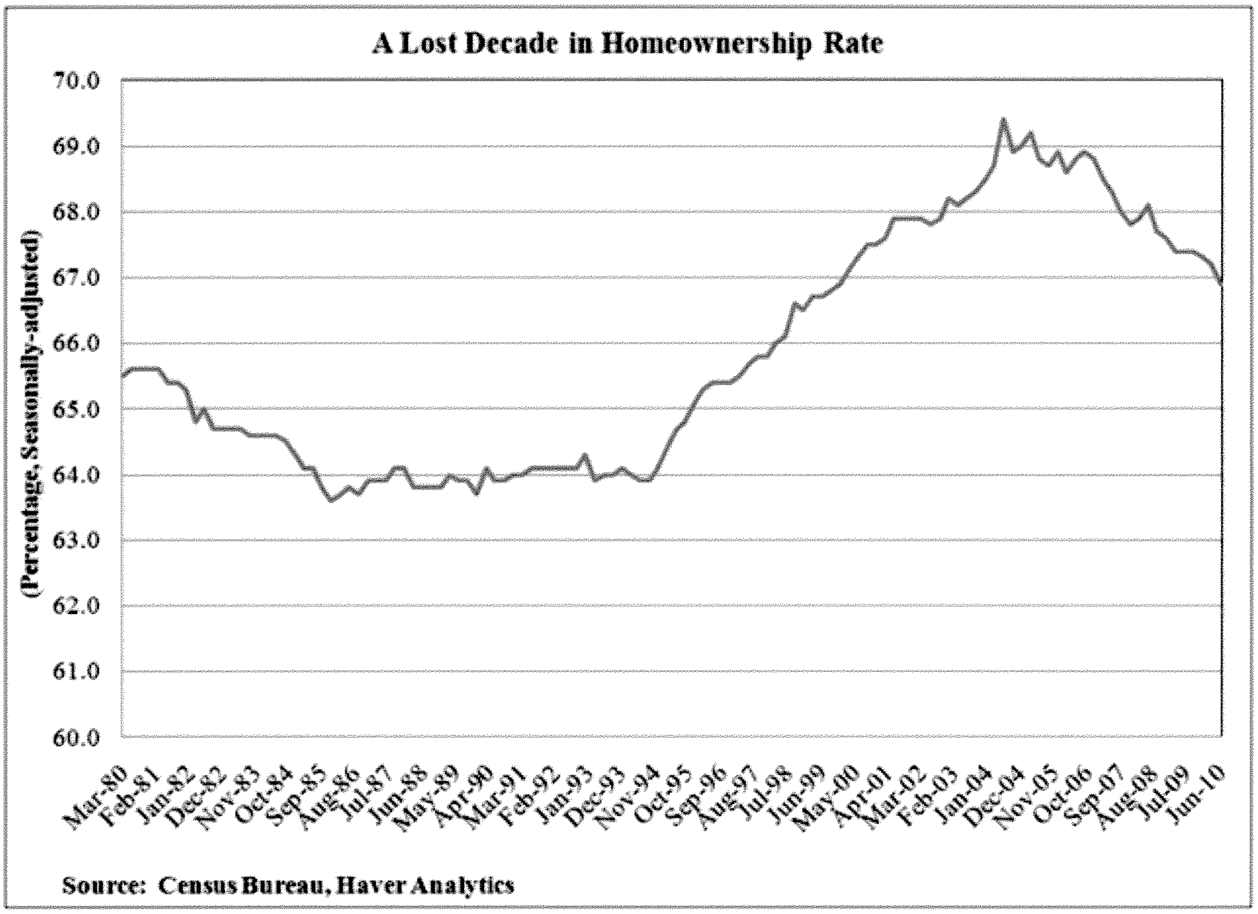
Standard & Poors, 2008

Appendix 2



Census Bureau, 2010

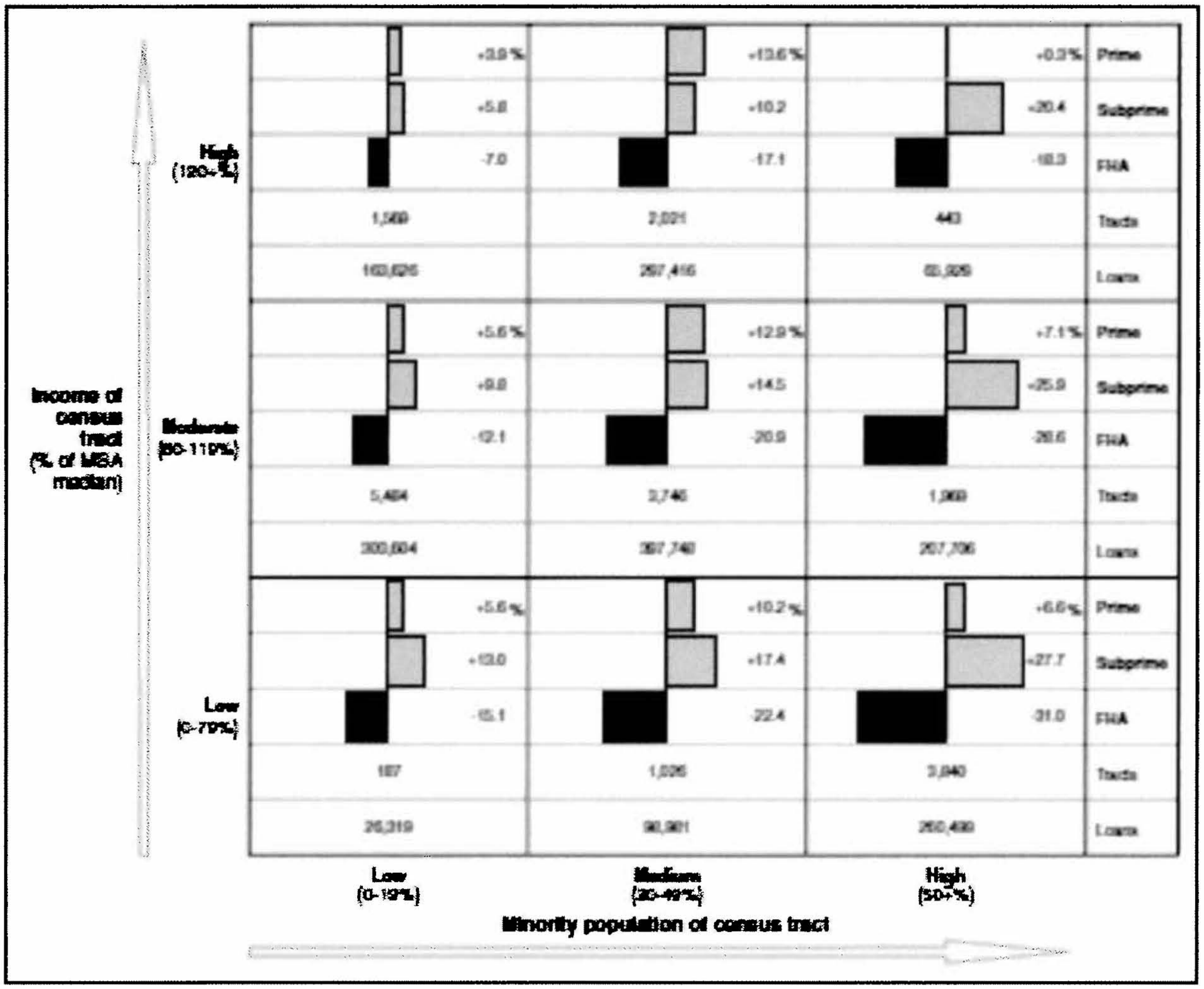
Appendix 3



JCHS, 2010

Appendix 4

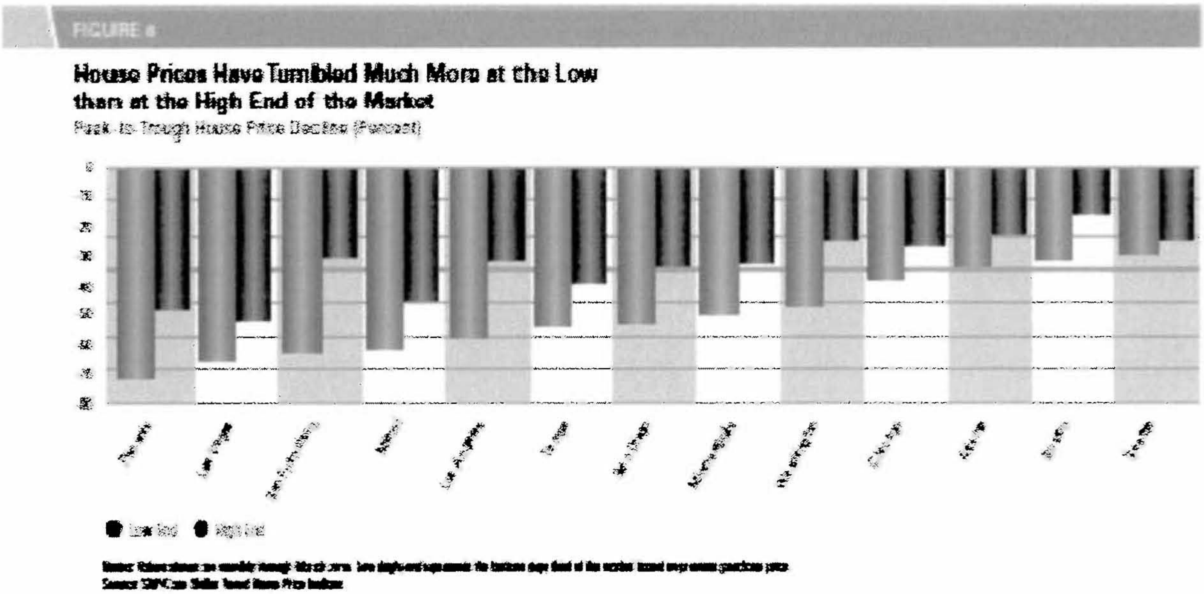
Figure 4: Changes in Market Shares for FHA-Insured, Prime, and Subprime Loans in Census Tracts with Different Race and Income Characteristics, 1996 through 2005



Source: GAO analysis of HMDA data.

GAO, 2007

Appendix 5



JCHS, 2010